IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CENTRAL EXCISE & CUSTOMS GOLD CONTROL AP No 22 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMM. OF C.EX. & CUSTOMS

Versus

ROHIT DYG. & FINISHING WORKS

Appearance:

1. CENTRAL EXCISE & CUSTOMS GOLD CONTROL AP No. 22 of 2001
MR ASIM J PANDYA for Petitioner No. 1
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 17/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

Though served none appears for the respondent.

2. Having heard the learned counsel for the applicant and having regard to the order dated 5-4-1999 passed by this Court in the matter of M/s. Gomti Processors, Surat, we direct the Central Excise, Customs & Gold Control Appellate Tribunal to refer the following question of law to this Court and to submit a statement of case in accordance with law:-

"Whether penal provisions relating to confiscation of goods and imposition of penalty are applicable to Man Made Fabrics which are `Excisable Goods' finding mention in Schedule to the Central Excise Tariff Act, 1985 though they are liable to Additional Duty of Excise only, in absence of any specific penal provisions in Section 3 (3) of Additional Duties of Excise (Goods of Special Importance) Act, 1957.

3. The application stands disposed of accordingly. Rule is accordingly made absolute with no order as to costs.

(M.S. Shah,J)

(D.A. Mehta,J)

zgs/-